

# EXHIBIT 32

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK, et al.

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official capacity as  
SECRETARY OF THE U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES, et al.,

Defendants.

Case No. 1:25-cv-00196

**DECLARATION OF DR. DAVID BONAUTO**

I, David Bonauto, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct:

1. I am over the age of eighteen, and am otherwise competent to testify. I have compiled the information in the statements set forth below through personal knowledge, through L&I's personnel and legal counsel who have assisted me in gathering this information from our institution, and on the basis of documents that have been provided to and reviewed by me.

2. I submit this Declaration in support of the Plaintiff's Motion for Preliminary Injunction. Specifically, I submit this Declaration to explain the importance to Washington, and my agency, of the National Institute of Occupational Safety and Health (NIOSH), which is housed within the Centers for Disease Control (CDC) and the Department of Health and Human Services (HHS).

3. I have worked for the State of Washington, Department of Labor & Industries (L&I) for 25 years. I have worked with L&I's Safety and Health Assessment and Research for Prevention (SHARP) program since 2000, initially as the Associate Medical Director, and currently as the

Research Director. Within L&I, I also chair the Advisory Committee on Occupational Disease Presumptions.

4. I am also the Principal Investigator on Washington State's NIOSH Cooperative Agreement for State-based Occupational Safety and Health Surveillance. I have also served on the NIOSH Board of Scientific Counselors, and have participated on NORA Sector Councils. Because of this and my other relevant experience working with NIOSH, I have personal knowledge of the importance of NIOSH to the Washington programs and agency I work for.

5. Immediately prior to joining L&I, I was a resident in occupational medicine at the University of Washington's Northwest Center for Occupational Health and Safety (NWCOS), a NIOSH-funded Education and Research Center. My past work and educational history includes being a hospital physician in Bremerton, Washington, and completing my medical school and residency training in internal medicine.

6. I have an A.B in Chemistry from Bowdoin College, a M.D. from the Columbia University College of Physicians and Surgeons, and a M.P.H. in Occupational Medicine from the University of Washington.

### **The Impacts to Washington of Losing NIOSH**

7. Washington State's workforce faces dangerous work environments every day. Washington's employers and workers don't just want evidence-based practices for preventing workplace injuries and controlling hazardous exposures—they depend on them. When research gaps exist, we turn to experts for consensus recommendations to safeguard workers' lives and create hazard-free workplaces. Every decision to allocate our limited state resources relies on comprehensive occupational injury data that drives our workers' compensation programs, state OSHA initiatives, and prevention strategies.

8. The potential elimination of NIOSH would devastate Washington State's occupational safety infrastructure. As America's only federal agency dedicated exclusively to worker health and safety research, NIOSH's disappearance would create catastrophic consequences.

9. Without NIOSH, Washington, and all other states, lose the primary and vast engine driving evidence-based workplace safety recommendations. The specialized research addressing unique threats in Washington's vital industries—from agriculture to aerospace, maritime to forestry—would vanish. Critical funding for our state-specific research partnerships and university programs would disappear, leaving our workers vulnerable to preventable dangers.

10. NIOSH provides Washington employers with access to world-class scientific evaluation of workplace hazards. This loss would eliminate sophisticated analytical methods for identifying complex exposure risks and remove crucial field investigation expertise when unusual workplace health incidents occur. This is irreplaceable. The NIOSH science-based recommendations that form the backbone (and brain and heart) of Washington's workplace safety regulations would be virtually eliminated.

11. The dismantling of training programs for future occupational safety professionals would result in inadequate evaluation of workplace hazards, poor evidence-based decision making on causation, and worse post injury employment outcomes. Workers will suffer the burden of workplace injuries and the social and economic outcomes that manifest, and employers will have increased workers compensation costs and the indirect costs associated with hiring and training of replacement workers.

12. Washington State nor any state can replace NIOSH's irreplaceable contributions. The consequences for Washington's workers' health, safety, and livelihoods will be severe.

**Several State Programs Directly Depend on NIOSH**

13. The loss of NIOSH would be felt, most immediately, by the numerous Washington state programs that interface or receive funding directly from NIOSH.

14. ***Washington State Surveillance Programs:*** NIOSH-funded programs provide surveillance data to inform public health actions. Allowing allocation of scarce public health resources to where they are most needed. Without data and science, we will falsely rely on anecdote. Without surveillance programs, there would be misallocation of prevention resources, misdirected research priorities and inefficiencies in our already strained public health system. Absent surveillance, trends in occupational injury and illness would be unknown, deaths on the job and serious exposures to respiratory hazards would not be counted or characterized, and in the end, no accountability for those required to provide safe and healthy workplaces.

15. First, Washington State is one of 23 U.S. States with a cooperative agreement with NIOSH for state-based surveillance of occupational injuries and illnesses.<sup>1</sup> Washington L&I's Cooperative (NIOSH/CDC U60OH008487—Washington Occupational Injury and Illness Surveillance Program) conducts research to prevent workplace fatalities, occupational respiratory disease, and adult occupational lead exposure.

16. Because the staff at NIOSH who could process grants appear to be subject to the reduction in force, NIOSH will effectively end this grant on June 30, 2025. Although this grant nominally has a grant period between July 1, 2021 and June 30, 2026, Washington must submit an “Annual Research Performance Progress Report/Non-Competing Continuation Application” (RPPR) in order to receive funds for that year. Washington L&I timely submitted their RPPR February 27, 2025 for the budget period of 7/1/2025 through 6/30/2026, but has not heard any

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<sup>1</sup> NIOSH Extramural Research and Training, *State Occupational Safety and Health Surveillance Program*, CDC (Jan. 8, 2024) <https://www.cdc.gov/niosh/extramural-programs/php/about/state-surveillance.html>.

response from NIOSH or anyone else at HHS. If the grant award is not made by June 30, 2025, work under this cooperative agreement will be discontinued and staff will likely be reassigned. Eliminating this agreement will diminish Washington State's capacity to track serious workplace injuries, illnesses and hazards.

17. Second, Washington is one of eight states that receives funding from NIOSH to track fatal work-related traumatic injuries via the NIOSH Fatality Assessment and Control Evaluation (FACE) program.<sup>2</sup> The grant funds an evaluation of the root cause of injury fatalities in high-risk industries of agriculture, forestry, fishing, construction, transportation, and warehousing, as well as other selected topic areas, such as young workers. These evaluations lead to the development of information to prevent workplace fatalities, such fatality narratives and fatality investigation reports. This information is publicly available on L&I and NIOSH's websites for any employer or worker in Washington. Employers regularly rely on this information to comply with regulations and implement the safety regulations and take steps above minimum regulatory compliance to prevent serious injuries and fatalities. But without NIOSH staff present to process funding for this program, it will not be able to survive.

18. Ensuring we have a thorough and unbiased review of the root causes of traumatic workplace fatalities from qualified and competent investigators not connected to a regulatory enforcement rule is critical to reducing and eliminating preventable workplace serious injuries and fatalities. The trend in Washington State's occupational injury fatality rate over the last twenty years has decreased, in part due to the efforts of this program. The information from Washington fatality narratives as well as fatality narratives produced by other NIOSH FACE Programs informs

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<sup>2</sup> NIOSH FACE Program, *Fatality Assessment and Control Evaluation*<sup>TM</sup> (FACE) Program, CDC (Dec. 10, 2024) <https://www.cdc.gov/niosh/face/about/index.html>.

opportunities for changes to current occupational safety and health regulations to address gaps or provide improved clarity to more effectively prevent such incidents from happening again.

19. Third, NIOSH's Adult Blood Lead Epidemiology Surveillance (ABLES) program is another state program that focuses identifies adults with elevated blood lead levels.<sup>3</sup> Washington is one of 37 participating ABLES program states tracking occupational lead exposures. Workers with elevated lead levels are provided educational information regarding lead exposure, its effect on their health, how to understand their blood lead test, and their employer's responsibilities to prevent lead exposure. Workers also receive information regarding how to prevent "take home" exposures to lead. Lead contamination from the workplace may be carried home from the workplace on protective clothing, shoes and thus expose those at home to lead. Children and pregnant women are particularly susceptible to lead exposure and should be protected from such exposure. Without NIOSH as a centralized hub for these data submissions, all participating states (including Washington) are denied the informational benefits of the program, which provides critical data on what jobs and industries have lead exposures that need to be addressed.

20. Fourth, Washington is one of four NIOSH-funded states participating in the NIOSH state-based surveillance program for occupational respiratory diseases.<sup>4</sup> Occupational respiratory diseases are caused or made worse by the work environment within their state-based occupational injury and illness surveillance program. This program tracks conditions such as occupational asthma, chronic obstructive pulmonary disease, silicosis, asbestosis, and toxic inhalations. Breathing in vapors, gas, dusts and fumes at work creates risk for developing a work-related lung

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<sup>3</sup> NIOSH *Lead in the Workplace, Adult Blood Lead Epidemiology and Surveillance (ABLES)*, CDC (April 22, 2024) <https://www.cdc.gov/niosh/lead/programs/index.html>.

<sup>4</sup> NIOSH *Worker Health and Safety Surveillance, Occupational Respiratory Disease*, CDC (Jan. 19, 2024) <https://www.cdc.gov/niosh/surveillance/respiratorydisease/index.html#:~:text=State%2Dbased%20surveillance%20is%20a,the%20state%20and%20local%20level>.

problem. Washington's occupational respiratory disease surveillance program has detected new harmful exposures in workplaces that cause respiratory disease, specifically hop dust and cannabis dust. Washington's occupational respiratory disease surveillance programs identified occupations at risk for respiratory infections from COVID-19 and coccidiomycosis (valley fever). The occupational respiratory disease surveillance program creates educational materials warning employers and workers of potential harmful exposure, advising on control strategies to prevent exposures, and preventing additional disease.

21. *Fifth*, Washington's surveillance programs also depend greatly on the non-monetary support provided by NIOSH intramural programs and subject matter experts. NIOSH supports Washington and other state-based surveillance programs by setting uniform case definitions for diseases under surveillance. NIOSH develops tools to convert unstructured data to structured data useful for systematic analyses, such as the NIOSH Industry and Occupation Computerized Coding System, a free web application that converts industry and occupation free text into numeric codes on surveys and medical records.<sup>5</sup> NIOSH establishes collaborations across states to combine data and build capacity in US states where there is little occupational safety and health capacity. These activities are organized through a NIOSH collaborative agreement with the Council of State and Territorial Epidemiologists, which builds a cohesive network and structure for information sharing and collaborations across states.

22. Additionally, losing NIOSH would also decimate L&I's SHARP program, which represents Washington's only dedicated occupational safety and health research unit, serving Washington's employers and workers as a resource for workplace injury and illness prevention.<sup>6</sup>

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<sup>5</sup> NIOSH, *About NIOCCS*, CDC (Dec. 13, 2022) <https://csams.cdc.gov/nioccs/About.aspx>.

<sup>6</sup> *Washington State Department of Labor & Industries, About SHARP*, <https://www.lni.wa.gov/safety-health/safety-research/about-sharp> (last visited May 7, 2025).



SHARP is separate from the regulatory programs at L&I (the workers compensation and DOSH programs), and is wholly unique to Washington. SHARP researchers collect and analyze occupational injury data to recognize emerging risks and troubling patterns that require intervention. The program develops evidence-based educational materials and practical guidance for both employers and workers to create safer workplaces. The program exemplifies Washington's commitment to using scientific approaches for preventing work-related injuries and illnesses. SHARP provides locally relevant research and solutions that complement the national work conducted by NIOSH. Together, these programs form a crucial safety net protecting Washington's workforce from preventable harm. But without NIOSH, its functionality is greatly hindered, and Washington workers will suffer.

#### **Losing NIOSH Will Hurt Washington's Workers**

23. Even outside of the direct harms to NIOSH-interfacing state programs, losing NIOSH will hurt these programs indirectly by removing one of the key federal pillars to protecting Washington workers from occupational injuries, including the many Washington laws that depend on NIOSH data for their efficacy.

24. For instance, NIOSH's demise means that the NIOSH Spokane facility will be closing. The Spokane Mining Research Division (SMRD) employs Washington residents and contributes to Washington's economy. Washington L&I has collaborated with researchers at the NIOSH Spokane facility by sharing L&I data related to workers' compensation injuries in Washington's mining sector. The data are confidential, contain personal information regarding workers and their work-related injuries and since employees at the NIOSH facility are non-responsive—the fate and security of these data are unknown. Risk of disclosure or loss of these data represents a financial and reputational risk to L&I and a privacy breach for Washington

workers within L&I. L&I has also benefitted from consultations with NIOSH SMRD employees on issues related to approaching safety from a risk management perspective, and understanding heat stress and physical activity, again the loss of subject matter expertise makes Washington recommendations weaker and less impactful.

25. NIOSH's Western States Division (WSD), also located at the Spokane NIOSH facility and also subject to a complete or near-complete elimination, focuses on occupational safety and health issues more common to the Western United States, among them Oil and Gas Extraction; Transportation, Warehousing and Utilities; Maritime Safety; Motor vehicle safety; and Wildland firefighting safety and health. Their work directly contributes to Washingtonians' safety by informing Washington's own local rules on specific dangerous workplaces.

### **Losing NIOSH Destroys Integral Governmental and Industry Partnerships**

26. The essential elimination of NIOSH, its leadership, stature and authority to guide the nation, states, and communities in a coordinated effort to advance worker safety and health and assist employers in providing a workplace free of hazards, will harm workers in almost every industry sector across the nation.

27. Among the many activities NIOSH conducts, they bring together business, labor, academia, professional associations, other federal agencies, states and other stakeholders in partnerships to coordinate and optimize research and prevention in occupational safety and health. Most visibly this is embodied in the NIOSH National Occupational Research Agenda (NORA), which has developed research agendas for all industry sectors, combined with research agendas that focus on major safety and health issues affecting workers in the United States.<sup>7</sup> The NORA

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<sup>7</sup> NORA, CDC (May 3, 2025) <https://www.cdc.gov/nora/default.html>.

program, which has existed since 1996, utilizes these public and commercial partnerships to stimulate innovative research and improved workplace practices.

28. The partnerships formed from NORA lead to actionable publications that combine the perspectives of the many stakeholders in occupational safety and health. For example, the NORA Services Sector Council recently produced a draft publication titled “Protecting Temporary Workers: Best Practices for Host Employers,” which was coauthored by NIOSH, NORA, the American Society of Safety Professionals, the American Staffing Association, and Washington L&I’s Safety and Health Assessment and Research for Prevention program.<sup>8</sup> This document provided a set of best practices for host employers to follow to better protect the safety and health of temporary workers. Without NIOSH, states lack the weight, authority, and breadth to replicate these comprehensive partnerships, priorities, and agendas for industries and major safety and health issues. Without NORA and other coordination by NIOSH, research and prevention opportunities for states will be missed, workers and employers don’t gain the benefit of coordinated efforts to eliminate hazards in their workplace.

29. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ David Bonauto

Dr. David Bonauto

SHARP Director

Washington Department of Labor & Industries

Date: May 8, 2025

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<sup>8</sup> NIOSH, *Protecting temporary workers: best practices for host employers*, CDC (July 6, 2022) <https://www.cdc.gov/niosh/docs/2022-126/default.html>.